

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Strauss	Team: Squad #6	CCRB Case #: 201906368	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/18/2019 7:30 PM	Location of Incident: MacDougal Street and Howard Avenue; 81st Precinct stationhouse	Precinct: 81	18 Mo. SOL 1/18/2021	EO SOL 9/4/2021	
Date/Time CV Reported Sun, 07/21/2019 4:46 PM	CV Reported At: CCRB	How CV Reported: Social Media	Date/Time Received at CCRB Sun, 07/21/2019 4:46 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Abel Lovera	01160	954081	081 PCT
2. POM Christian Angeron	14678	961619	081 PCT
3. SGT Yasin Elhaddad	3263	940123	081 PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Soney Varghese	15438	957246	081 PCT
2. SGT Brian Dean	21099	951659	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Yasin Elhaddad	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad stopped § 87(2)(b)	
B.POM Abel Lovera	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera stopped § 87(2)(b)	
C.POM Christian Angeron	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Christian Angeron stopped § 87(2)(b)	
D.SGT Yasin Elhaddad	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad stopped individuals.	
E.POM Abel Lovera	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera stopped individuals.	
F.POM Christian Angeron	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Christian Angeron stopped individuals.	
G. An officer	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad searched individuals.	

Officer(s)	Allegation	Investigator Recommendation
H.SGT Yasin Elhaddad	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad interfered with § 87(2)(b)'s use of a recording device.	
I.POM Abel Lovera	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera threatened to arrest § 87(2)(b).	
J.SGT Yasin Elhaddad	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad failed to provide § 87(2)(b) with a business card.	
K.POM Abel Lovera	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera failed to provide § 87(2)(b) with a business card.	
L.POM Christian Angeron	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Christian Angeron failed to provide § 87(2)(b) with a business card.	
M.SGT Yasin Elhaddad	Discourtesy: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad spoke discourteously to § 87(2)(b).	
N.SGT Yasin Elhaddad	Off. Language: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad made remarks to § 87(2)(b) based upon his gender.	
O.SGT Yasin Elhaddad	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad issued a summons to § 87(2)(b).	
P.POM Abel Lovera	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera issued a summons to § 87(2)(b).	
Q.POM Abel Lovera	Discourtesy: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera acted discourteously toward § 87(2)(b).	
R.SGT Yasin Elhaddad	Discourtesy: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad spoke discourteously to § 87(2)(b).	
S.POM Abel Lovera	Abuse: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera damaged § 87(2)(b)'s property.	
T.SGT Yasin Elhaddad	Abuse: At the 81st Precinct stationhouse, Sergeant Yasin Elhaddad damaged § 87(2)(b)'s property.	
U.SGT Yasin Elhaddad	Off. Language: At the 81st Precinct stationhouse, Sergeant Yasin Elhaddad made remarks to § 87(2)(b) based upon race.	
V.POM Abel Lovera	Abuse: At the 81st Precinct stationhouse, Police Officer Abel Lovera damaged § 87(2)(b)'s property.	
W.SGT Yasin Elhaddad	Discourtesy: At the 81st Precinct stationhouse, Police Officer Abel Lovera spoke discourteously to § 87(2)(b).	
X.SGT Yasin Elhaddad	Off. Language: At the 81st Precinct stationhouse, Sergeant Yasin Elhaddad made remarks to § 87(2)(b) based upon his gender.	
§ 87(2)(g), § 87(4-b)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(2)(g), § 87(4-b)		

Case Summary

On July 18, 2019, § 87(2)(b) posted a video of this incident on Twitter. On July 21, 2019, § 87(2)(b), § 87(2)(b) emailed the video to the CCRB.

On July 18, 2019, at approximately 7:30 p.m., Sgt. Yasin Elhaddad, PO Abel Lovera, and PO Christian Angeron, of the 81st Precinct, stopped § 87(2)(b) and two unidentified individuals for drinking in public, at MacDougal Street and Howard Avenue in Brooklyn (**Allegations A-F: Abuse of Authority**, § 87(2)(g)). An officer allegedly smelled the cups that the individuals held (**Allegation G: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) approached and was allegedly prevented from recording by Sgt. Elhaddad (**Allegation H: Abuse of Authority**, § 87(2)(g)). PO Lovera told § 87(2)(b) that if he did not step back, he would be arrested (**Allegation I: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and the individuals were released without being arrested or issued summonses. Sgt. Elhaddad, PO Lovera, and PO Angeron did not provide § 87(2)(b) with business cards (**Allegation J-L: Abuse of Authority**, § 87(2)(g)). As the officers walked back to their vehicle, Sgt. Elhaddad allegedly called § 87(2)(b) a “fucking pussy” (**Allegation M: Discourtesy**, § 87(2)(g)). **Allegation N: Offensive Language**, § 87(2)(g) and § 87(2)(b) replied that he was going to have “sex with [his] mother.” Sgt. Elhaddad, PO Lovera, and PO Angeron approached § 87(2)(b) and PO Lovera asked for his identification. § 87(2)(b) refused to provide his identification, turned around, and placed his hands behind his back. PO Lovera arrested § 87(2)(b) (**Allegations O-P: Abuse of Authority**, § 87(2)(g)). While handcuffing § 87(2)(b) PO Lovera slapped a container of food out of § 87(2)(b)'s hands (**Allegation Q: Discourtesy**, § 87(2)(g)). Sgt. Elhaddad asked § 87(2)(b) in regard to his parents, “And they didn’t show your ass how you talk on the street?” (**Allegation R: Discourtesy**, § 87(2)(g)). While § 87(2)(b) was handcuffed, PO Lovera cut off § 87(2)(b)'s backpack with a knife (**Allegation S: Abuse of Authority**, § 87(2)(g)).

In the 81st Precinct stationhouse parking lot, Sgt. Elhaddad allegedly dropped § 87(2)(b)'s cell phone, which damaged the screen (**Allegation T: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) stated that Sgt. Elhaddad broke his phone. Sgt. Elhaddad allegedly replied, “Nigga, it will be alright” (**Allegation U: Offensive Language**, § 87(2)(g)). While searching § 87(2)(b)'s property inside of the stationhouse, PO Lovera allegedly dropped § 87(2)(b)'s iPad onto the floor, which damaged the screen (**Allegation V: Abuse of Authority**, § 87(2)(g)). As § 87(2)(b) left the stationhouse, Sgt. Elhaddad allegedly called him a “fucking bitch” and stated, “You ain’t gonna do shit” (**Allegation W: Discourtesy**, § 87(2)(g)). **Allegation X: Offensive Language**, § 87(2)(g). § 87(2)(g), § 87(4-b)

§ 87(2)(b) was issued a summons for disorderly conduct (BR 01), and his case was ultimately dismissed. No other summonses or arrests resulted from this incident. BWC footage recorded by Sgt. Elhaddad, PO Lovera, and PO Angeron and cell phone video recorded by § 87(2)(b) were obtained (BR 02-09).

Findings and Recommendations

Allegation (A) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad stopped § 87(2)(b)

Allegation (B) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera stopped § 87(2)(b)

Allegation (C) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Christian Angeron stopped § 87(2)(b)

Allegation (D) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad stopped individuals.

Allegation (E) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera stopped individuals.

Allegation (F) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Christian Angeron stopped individuals.

In PO Lovera's BWC footage (BR 04), at the 01:02 mark in the video player, § 87(2)(b) asked if he committed a crime. PO Lovera stated that he was drinking and § 87(2)(b) replied that he was not and was solely speaking with the female in the USPS truck. PO Lovera stated that he saw § 87(2)(b) drinking before the USPS truck arrived, and they went back and forth about the matter. At the 03:15 mark, PO Lovera said that § 87(2)(b) and his friends could be issued open container summonses, but he would give them a break. At the 01:26 mark in § 87(2)(b) cell phone video (BR 09), one of the individuals stated, in reference to the officers, "And they over here wylin' cause a nigga drinking." No cups, bottles, or cans were visible at any point in any videos.

§ 87(2)(b) was deemed uncooperative and the investigation was unable to identify his two friends.

§ 87(2)(b) testified (BR 10) that when they approached MacDougal Street and Howard Avenue, Sgt. Elhaddad, PO Lovera, and PO Angeron spoke with § 87(2)(b) in the street, while the two individuals stood on the sidewalk. § 87(2)(b) could not hear the conversation between § 87(2)(b) and the officers but heard statements about drinking and an open container. § 87(2)(b) did not see any cups or bottles, did not smell any alcohol, and nobody seemed intoxicated.

§ 87(2)(b) testified (BR 11-12) that when he approached, two individuals stood on the sidewalk and § 87(2)(b) stood in the street, next to a double-parked USPS truck. An officer, whom he did not recall, approached the individuals and two officers approached § 87(2)(b) § 87(2)(b) and the individuals held unlabeled white cups, but he did not smell liquor or see any bottles or cans.

§ 87(2)(b) a USPS employee, stated (BR 13) that when she parked her USPS vehicle, § 87(2)(b) and the two individuals stood on the sidewalk. § 87(2)(b) approached her vehicle, spoke with her, and shortly thereafter, officers arrived. The officers had a conversation with § 87(2)(b) and the individuals about drinking, but she did not recall what they said. § 87(2)(b) did not recall seeing cups, bottles, cans, or any indication that § 87(2)(b) or the individuals had been drinking.

Sgt. Elhaddad testified (BR 14) that while he, PO Lovera, and PO Angeron drove on Howard Avenue, he observed three males, approximately 15-20 feet away on MacDougal Street, drinking alcohol out of small, clear plastic cups. The cups contained a colorful liquid and he also observed a full-sized liquor bottle. The officers drove around the block to get onto MacDougal Street. When Sgt. Elhaddad exited his vehicle, he detected an odor of alcohol. He did not recall whether there was any other indication that alcohol had been consumed. Additionally, he did not see the liquor bottle and only § 87(2)(b) still held a cup. The two individuals were not stopped and were free to leave. § 87(2)(b) was considered stopped, as he was suspected of committing an open container violation. Ultimately, § 87(2)(b) was released with a warning and not issued any summonses.

§ 87(2)(g)
§ 87(2)(b) PO Lovera clarified that when he initially observed § 87(2)(b) and the individuals, the liquor bottle was on the sidewalk, he did not recall the color of the cups, and did not know if anything appeared to be inside the cups. After they drove around and came back to the location, the two individuals held cups but § 87(2)(b) did not. PO Lovera did not recall if the two individuals were considered stopped or if any officers approached them, but they could have been issued

summonses. PO Angeron testified that § 87(2)(b) and the two individuals were all considered stopped because they committed open container violations.

No cups, bottles, or cans were visible in any video footage, and BWC footage captured § 87(2)(b)'s statement to PO Lovera that he had not been drinking. § 87(2)(g)

Two independent witnesses, both of whom arrived after the officers allegedly initially observed § 87(2)(b) and the individuals drinking, stated that they did not see any cups or indication that alcohol had been consumed. § 87(2)(b) testified that he did not observe any indicia of alcohol consumption. § 87(2)(g)

§ 87(2)(g)

Allegation (G) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, an officer searched individuals.

This portion of the incident was not captured on BWC or another video source.

§ 87(2)(b) testified that an officer, whom he did not recall, approached the individuals, who stood on the sidewalk. The officer looked inside the individuals' cups and his face was close enough to the cup to see and smell what was inside. § 87(2)(b) told the individuals that the officer was not allowed to check the contents of their cups without approval, and the officer walked away and toward the other two officers, who were speaking with § 87(2)(b)

§ 87(2)(b) stated that she did not observe any cups and did not recall whether an officer looked into cups that the individuals allegedly held.

As discussed, § 87(2)(b) was deemed uncooperative and the individuals were unidentified.

Sgt. Elhaddad testified that he did not smell or look into cups that the individuals allegedly held and did not think that any other officer did so. PO Lovera did not recall whether he, Sgt. Elhaddad, or PO Angeron smelled or looked into cups that the individuals held. PO Angeron testified that he did not smell or look into cups that the individuals held. He did not know whether Sgt. Elhaddad or PO Lovera looked into the cups and they did not smell the contents of the cups.

§ 87(2)(b) did not recall which officer looked into and smelled the individuals' cups. § 87(2)(g)

Allegation (H) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad interfered with § 87(2)(b)'s use of a recording device.

In PO Angeron's BWC footage (BR 06), at the 00:58 mark in the video player, Sgt. Elhaddad stood directly in front of § 87(2)(b) approximately a foot away from him, while § 87(2)(b) held

his camera over Sgt. Elhaddad's head. They both faced forward. § 87(2)(b) stated that Sgt. Elhaddad stepped on his foot, though it was not visible in the video. In PO Lovera's BWC footage (BR 04), at the 01:20 mark, Sgt. Elhaddad and PO Lovera repeatedly told § 87(2)(b) to back up. § 87(2)(b) then backed up toward the corner, approximately 15 feet away. In § 87(2)(b) cell phone video, at the 00:10 mark (BR 08), after § 87(2)(b) moved back, Sgt. Elhaddad told § 87(2)(b) that he could record all he wanted from the corner.

§ 87(2)(b) testified that while he recorded the interaction, Sgt. Elhaddad stood in front of him and stepped on his foot, in order to prevent him from recording. Sgt. Elhaddad told him several times to move. § 87(2)(b) replied that he could not move because Sgt. Elhaddad was on his foot. Sgt. Elhaddad then stepped away and § 87(2)(b) went to the corner, where he resumed recording. § 87(2)(b) was unable to retrieve the videos he took during the incident.

Sgt. Elhaddad testified that § 87(2)(b) stood approximately one to two feet away from him and recorded the interaction. He told § 87(2)(b) that he could record and told him several times to back up before he ultimately complied and moved to the corner. Sgt. Elhaddad did not think that he stepped on § 87(2)(b)'s foot and did not intentionally block him from recording.

§ 87(2)(g) PO Lovera and PO Angeron testified that § 87(2)(b) was able to record but needed to move back because he was too close to the officers.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (I) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera threatened to arrest § 87(2)(b)

It is undisputed that as § 87(2)(b) recorded the interaction, PO Lovera told § 87(2)(b) that if he did not step back, he would be placed into handcuffs. In PO Angeron's BWC footage (BR 06), at the 00:10 mark in the video player, Sgt. Elhaddad, PO Lovera, and PO Angeron stood in the street next to § 87(2)(b) while § 87(2)(b) stood on the sidewalk and recorded, from several feet away. At the 00:30 mark, PO Lovera and § 87(2)(b) discussed why § 87(2)(b) was stopped. At the 00:58 mark, Sgt. Elhaddad stood directly in front of § 87(2)(b) approximately a foot away from him, while they both faced forward. At that point, PO Lovera stood in the street with § 87(2)(b) several feet away from Sgt. Elhaddad and § 87(2)(b). Sgt. Elhaddad and PO Lovera repeatedly told § 87(2)(b) to back up. At the 01:28 mark, PO Lovera stated, "Step back or you're gonna go in cuffs." § 87(2)(b) then backed up to the corner, approximately 15 feet away from the officers.

§ 87(2)(g) § 87(2)(b) specified that he initially approached the location to see what was going to happen, so that he could potentially help because of his military background. He advised § 87(2)(b) and the individuals about their rights during police encounters. § 87(2)(b) did not testify that PO Lovera threatened to arrest him.

Sgt. Elhaddad testified that § 87(2)(b) could have been arrested for obstructing governmental administration (OGA), as he interfered with the officers' investigation, insofar as he distracted Sgt. Elhaddad from doing his job and based upon his close proximity. When presented with PO

Angeron's BWC footage depicting his proximity to § 87(2)(b) Sgt. Elhaddad explained that he probably stepped in front of § 87(2)(b) but § 87(2)(b) should not have been so close. PO Lovera's and PO Angeron's testimonies were consistent with Sgt. Elhaddad's testimony.

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function or attempts to prevent a public servant from performing an official function by means of intimidation, physical force or interference, or any independently unlawful act. New York Penal Law § 195.05 (BR 21).

Individuals have a right to lawfully observe and record police activity. An arrest for OGA requires "actual interference with the performance of an official police function." NYPD Patrol Guide, Procedure 203-29 (BR 22).

To support a charge of obstructing governmental administration, mere words alone do not constitute "physical force or interference," and the interference must be physical in nature. People v. Case, 42 N.Y.2d 98 (1977) (BR 23).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED].

Allegation (J) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad failed to provide § 87(2)(b) with a business card.

Allegation (K) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera failed to provide § 87(2)(b) with a business card.

Allegation (L) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Christian Angeron failed to provide § 87(2)(b) with a business card.

It is undisputed that Sgt. Elhaddad, PO Lovera, and PO Angeron did not provide § 87(2)(b) who was not arrested or issued a summons, with business cards.

Sgt. Elhaddad, PO Lovera, and PO Angeron testified that they did not provide § 87(2)(b) with business cards. Sgt. Elhaddad and PO Lovera stated that in their understanding, they were not required to do so at the conclusion of the incident. PO Angeron acknowledged that this was a scenario in which § 87(2)(b) should have been provided with a business card, but he and his partners were distracted by § 87(2)(b).

An officer shall offer a business card at the conclusion of certain law enforcement activities to the subject of that law enforcement activity, when such activity does not result in an arrest or summons.

This includes pedestrian stops where an officer has reasonable suspicion that the person committed, is committing, or is about to commit a crime. NYC Administrative Code § 14-174 (BR 17).

§ 87(2)(g)

Allegation (M) Discourtesy: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad spoke discourteously to § 87(2)(b)

Allegation (N) Offensive Language: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad made remarks to § 87(2)(b) based upon his gender.

Cell phone and BWC video footage did not capture this portion of the incident.

§ 87(2)(b) testified that when the interaction with § 87(2)(b) and the individuals concluded, Sgt. Elhaddad, PO Lovera, and PO Angeron left and walked back toward their vehicle. As § 87(2)(b) spoke with § 87(2)(b) and the individuals, Sgt. Elhaddad called § 87(2)(b) a “fucking pussy.” § 87(2)(b) then replied that he was going to have “sex” with the officer’s mother.

§ 87(2)(b) testified that while the officers were inside of or next to their vehicle, § 87(2)(b) stated a comment to the effect of, “Well, I’d fuck your mother.” It sounded like § 87(2)(b) responded to a remark the officer said to him, but § 87(2)(b) was not sure.

Sgt. Elhaddad testified that he did not think any officer said anything to § 87(2)(b) before he cursed at the officers. He did not call § 87(2)(b) a “fucking pussy” or use discourteous or offensive language toward § 87(2)(b) at that point. PO Lovera and PO Angeron testified that Sgt. Elhaddad did not refer to § 87(2)(b) as a “fucking pussy.”

§ 87(2)(g)

Allegation (O) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad issued a summons to § 87(2)(b)

Allegation (P) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera issued a summons to § 87(2)(b)

§ 87(2)(g)

It is undisputed that as the officers walked to their vehicle, § 87(2)(b) stated that he would have sex with an officer’s mother. He was arrested, brought to the stationhouse, and released with a summons for disorderly conduct, in violation of subsection one of New York Penal Law § 240.20.

The officers and § 87(2)(b) stopped recording when the interaction with § 87(2)(b) concluded and approximately 13 seconds – in which § 87(2)(b) made remarks to the officers that prompted their return – were not captured on video. In § 87(2)(b) cell phone footage (BR 09), at the 00:00 mark in the video player, § 87(2)(b) stated, “Your mom just called me up.” PO Lovera and Sgt. Elhaddad, who were next to their vehicle, approached § 87(2)(b) PO Angeron followed shortly thereafter. PO Lovera stated that § 87(2)(b) was disrespectful and asked for his identification. § 87(2)(b) replied no. PO Lovera stated that if § 87(2)(b) did not provide his

identification, he would be placed into handcuffs. § 87(2)(b) turned around and put his arms behind his back. PO Lovera then handcuffed § 87(2)(b) and the individuals expressed their dismay that § 87(2)(b) was arrested. § 87(2)(b) stated, “Don’t go to jail for me bro,” § 87(2)(b) stated that someone cannot be arrested solely for speaking, and an individual stated, “Freedom of speech bitch.” After the officers walked away, an individual stated, “Fuck the police.” In PO Lovera’s BWC footage (BR 05), at the 00:12 mark, solely § 87(2)(b) and the two individuals were visible. This captured the time frame directly after § 87(2)(b) made statements to the officers, and before they approached him. § 87(2)(b) did not make any sudden movements, did not strike or touch the officers, and did not touch or physically interfere with § 87(2)(b) or the individuals at any point in the BWC or cell phone video footage.

§ 87(2)(b) testified that as the officers walked toward their vehicle, Sgt. Elhaddad called him a “fucking pussy.” § 87(2)(b) replied, “Word Imma have sex with your moms.” The officers approached and asked for his identification, which he refused to provide without a valid reason. § 87(2)(b) placed his hands behind his back and he was handcuffed by PO Lovera.

§ 87(2)(g) clarified that as the officers walked to their vehicle, § 87(2)(b) stated, “Well I’d fuck your mother” and made a thrusting gesture. The officers approached § 87(2)(b) and he was handcuffed by Sgt. Elhaddad.

§ 87(2)(g) Sgt. Elhaddad testified that after § 87(2)(b) was released and the officers walked back to their vehicle, § 87(2)(b) yelled, “Fuck you,” “Fuck your mother,” “I’ll fuck you up,” and “Bitch ass.” He considered § 87(2)(b)’s statements to be offensive language. The officers approached § 87(2)(b) with the intention of taking him to the precinct to issue a disorderly conduct summons. § 87(2)(b)’s statements caused a crowd of approximately 10 individuals to gather, including § 87(2)(b) and the two individuals. § 87(2)(b) was disorderly insofar as he used offensive language that caused a crowd to gather, and he was arrested for these offensive statements and his actions throughout the entire interaction.

PO Lovera testified that at some point, § 87(2)(b) cursed and stated that he was going to “fuck up” the officers, though he did not recall when that occurred. As the officers walked back to their vehicle, § 87(2)(b) stated, “You bitch ass sergeant, [I’m] going to fuck your mother.” He had safety concerns regarding § 87(2)(b)’s proximity to Sgt. Elhaddad earlier in the incident, given that anybody could have gotten hurt. There was a crowd of individuals who screamed at the officers when the interaction began and continued screaming the entire time. PO Lovera was not sure how many people were present. The officers approached § 87(2)(b) with the intention of issuing a disorderly conduct summons at the location. § 87(2)(b) stated that he did not have an identification, so he was brought back to the stationhouse to verify his identity.

PO Angeron testified that throughout the interaction, § 87(2)(b) yelled and cursed at the officers, but did not recall what profanity was used. PO Angeron was concerned for his safety, given that he did not know if § 87(2)(b) would become violent and based upon his proximity to Sgt. Elhaddad. As the officers walked toward their vehicle, § 87(2)(b) yelled, “I will fuck your mother.”

§ 87(2)(b)’s summons, issued by PO Lovera (BR 01), detailed that § 87(2)(b) stated, “You bitch ass sergeant, going to fuck your mother.” He was charged with violating subsection one of the disorderly conduct statute, which states that “with an intent to cause public inconvenience,

annoyance or alarm, or recklessly creating a risk thereof, he or she engage[d] in fighting or in violent, tumultuous, or threatening behavior.”

A person is guilty of disorderly conduct when, with an intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she: (1) engages in fighting or in violent, tumultuous, or threatening behavior; (2) makes unreasonable noise; (3) uses abusive or obscene language, or makes an obscene gesture; (4) without lawful authority, disturbs any lawful assembly; (5) obstructs vehicular or pedestrian traffic; (6) congregates with other persons in a public place and refuses to comply with an order to disperse; or (7) creates a hazardous or physically offensive condition. New York Penal Law § 240.20 (BR 18).

Isolated statements using coarse language to criticize the actions of a police officer, unaccompanied by other aggravating circumstances, rarely provide the requisite mens rea -- *intent* to cause public harm -- required to support a charge of disorderly conduct. The mere presence of spectators, without evidence that they became verbally or physically involved in the dispute, is not enough to constitute disorderly conduct. People v. Baker, 20 N.Y.3d 354 (2013) (BR 19).

In People v. Stephen, the Court held that a defendant’s statement to officers, “If you didn’t have that gun and badge, I’d kick your ass, I’d kill you” was constitutionally protected speech and thus, did not constitute disorderly conduct. Absent any indication that the defendant, or member of the crowd, was likely or able to follow through on the threat, the remarks were constitutionally protected because they did not present a clear and present danger and were not “fighting words” that would likely evoke immediate violence or other breach of the peace. People v. Stephen, 153 Misc. 2d 382 (1992) (BR 20).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (Q) Discourtesy: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera acted discourteously toward § 87(2)(b)

Allegation (R) Abuse of Authority: At MacDougal Street and Howard Avenue in Brooklyn, Police Officer Abel Lovera damaged § 87(2)(b) s property.

It is undisputed that PO Lovera hit a container out of § 87(2)(b)'s hands while he handcuffed him. It is also undisputed that PO Lovera cut the straps off § 87(2)(b)'s backpack in order to remove it. In § 87(2)(b)'s cell phone footage (BR 09), at the 00:00 mark in the video player, § 87(2)(b) stated, "Your mom just called me up." PO Lovera told § 87(2)(b) that he was being disrespectful and asked for his identification. § 87(2)(b) replied no and PO Lovera stated that if he did not provide his identification, he would be put into handcuffs. § 87(2)(b) who wore a backpack, then turned around and put his arms behind his back. At the 00:09 mark, PO Lovera hit a silver container out of § 87(2)(b)'s hands and onto the sidewalk. PO Lovera then handcuffed § 87(2)(b). PO Lovera led § 87(2)(b) away and left the container on the sidewalk. In PO Angeron's BWC footage (BR 07), at the 01:45 mark, § 87(2)(b) who was handcuffed, asked PO Lovera if he broke his backpack and he replied yes. At the 01:51 mark, PO Lovera used a knife to cut the second strap off § 87(2)(b)'s backpack while it was on his back.

§ 87(2)(g). He clarified that as he was handcuffed, PO Lovera slapped a to-go bowl of food, which also contained \$70, out of his hands. Shortly thereafter, PO Lovera cut off the straps of his North Face backpack with a knife. The officers left § 87(2)(b)'s container on the ground and when he returned later, it was not there.

PO Lovera testified that as the officers walked back to their vehicle, § 87(2)(b) cursed and made threatening statements, including, "You bitch ass sergeant, going to fuck your mother." PO Lovera intended to issue a summons to § 87(2)(b) but handcuffed him because he did not have an identification. PO Lovera removed an object from § 87(2)(b)'s hands, which may have fallen, because an arrestee cannot have anything in their hands. When presented with his BWC footage, he explained that he removed the object from § 87(2)(b)'s hands in that manner because he wanted to handcuff § 87(2)(b) quickly and it was the fastest way to place him into handcuffs. § 87(2)(b) was handcuffed with his backpack because it was in the officers' safety interest to handcuff him as soon as possible. PO Lovera tried to remove the backpack by sliding the straps out of the buckle, but he was unable to do so. He then cut off § 87(2)(b)'s backpack with a knife, as the property needed to be removed and there was no other way to remove it. It would have been unsafe to take off § 87(2)(b)'s handcuffs once he was handcuffed.

§ 87(2)(g). Sgt. Elhaddad clarified that § 87(2)(b) potentially could have hit somebody with the object in his hands. Additionally, § 87(2)(b) was an immediate threat to officers insofar as he refused to be handcuffed and based upon his offensive statements. PO Angeron did not recall whether PO Lovera removed an object from § 87(2)(b)'s hands or removed § 87(2)(b)'s backpack with a knife.

The NYPD is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. NYPD Patrol Guide, Procedure 200-02 (BR 24). Officers must give due respect to property and may only damage property if doing so is "reasonably necessary" to effectuate their duties. Onderdonk v. State, 170 Misc. 2d 155 (1996) (BR 25).

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g)

Allegation (S) Discourtesy: At MacDougal Street and Howard Avenue in Brooklyn, Sergeant Yasin Elhaddad spoke discourteously to § 87(2)(b)

In Sgt. Elhaddad's BWC footage (BR 02), at the 01:32 mark in the video player, § 87(2)(b) stated that his parents were police officers. Sgt. Elhaddad replied, "And they didn't show your ass how you talk on the street?"

Neither § 87(2)(b) nor § 87(2)(b) testified that Sgt. Elhaddad made such a statement.

Sgt. Elhaddad initially testified that he did not recall whether there was a discussion about § 87(2)(b)'s parents being police officers and denied that he stated, "And they didn't show your ass how you talk on the street?" Upon viewing his BWC footage, Sgt. Elhaddad explained that it refreshed his recollection and that he said, regarding § 87(2)(b)'s parents, "And they didn't show you how to act?" Sgt. Elhaddad denied stating, "And they didn't show your ass how you talk on the street?"

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§ 87(2)(g)

§ 87(2)(g)

Allegation (T) Abuse of Authority: At the 81st Precinct stationhouse, Sergeant Yasin Elhaddad damaged § 87(2)(b)'s property.

Allegation (U) Offensive Language: At the 81st Precinct stationhouse, Sergeant Yasin Elhaddad made remarks to § 87(2)(b) based upon race.

In Sgt. Elhaddad's BWC footage (BR 02), at the 05:16 mark in the video player, they arrived at the stationhouse. While in the stationhouse parking lot, § 87(2)(b) asked Sgt. Elhaddad to put his phone in his pocket, and Sgt. Elhaddad replied that his phone would be vouchered because he could not have it in the holding cell. There was no further discussion between Sgt. Elhaddad and § 87(2)(b) and there was no sound which indicated that an object fell.

§ 87(2)(b) testified that in the stationhouse parking lot, Sgt. Elhaddad dropped his cell phone onto the ground, which caused the screen to crack. Sgt. Elhaddad intentionally dropped his phone in order to antagonize him. When he remarked that Sgt. Elhaddad broke his phone, Sgt. Elhaddad replied, "Nigga, it will be alright."

Sgt. Elhaddad testified that he did not drop § 87(2)(b)'s cell phone in the parking lot and did not see the cell phone with damage at any point. He did not tell § 87(2)(b) "Nigga, it will be alright," or use offensive language toward § 87(2)(b) at any point.

PO Lovera did not recall whether Sgt. Elhaddad dropped § 87(2)(b)'s cell phone and Sgt. Elhaddad did not tell § 87(2)(b) "Nigga, it will be alright." PO Angeron did not see Sgt. Elhaddad drop § 87(2)(b)'s cell phone or hear him say, "Nigga, it will be alright."

Video footage, which recorded the entire portion of the incident in which this interaction allegedly occurred, did not capture Sgt. Elhaddad dropping § 87(2)(b)'s phone, any conversation about his phone being dropped or damaged, any sounds indicating that something dropped, or Sgt. Elhaddad's alleged statement to § 87(2)(b) "Nigga, it will be alright," or any variation thereof. § 87(2)(g)

Allegation (V) Abuse of Authority: At the 81st Precinct stationhouse, Police Officer Abel Lovera damaged § 87(2)(b)'s property.

In PO Lovera's BWC footage (BR 05), at the 09:10 mark in the video player, PO Lovera emptied the contents of § 87(2)(b)'s backpack and placed them onto the command desk. At the 09:55 mark, PO Lovera turned § 87(2)(b)'s backpack upside down and shook it. There was a loud thud and § 87(2)(b) remarked, "Ah my iPad" and asked whether it was considered destruction of property. It was not visible what dropped onto the floor and an iPad was not visible at any point.

§ 87(2)(b) testified that while his property was searched at the stationhouse, PO Lovera turned his backpack upside down and emptied the contents onto the floor. His iPad Pro cracked and would not turn on afterward. § 87(2)(b) subsequently got his iPad fixed and was unable to send photographs of the damage.

PO Lovera testified that while in front of the command desk, he took large items out of § 87(2)(b)'s backpack and placed them onto the table. PO Lovera thought that the backpack was empty and lifted it, though he did not recall if he turned it upside down. A few objects fell on the ground, which he picked up. PO Lovera did not recall if an iPad fell and did not recall seeing an iPad at any point. When presented with his BWC footage, PO Lovera confirmed that he heard § 87(2)(b) say something about his iPad but it did not refresh his recollection as to whether an iPad dropped onto the floor. PO Lovera did not intentionally turn § 87(2)(b)'s backpack upside down and drop an iPad out of the bag.

Sgt. Elhaddad testified that he did not recall who searched § 87(2)(b)'s backpack or whether § 87(2)(b)'s iPad fell while his bag was searched. PO Angeron testified that he did not recall who searched § 87(2)(b)'s backpack. PO Angeron did not see § 87(2)(b)'s iPad with damage at any point. Sgt. Brian Dean, who worked as the desk officer at the time, testified (BR 26) that he did not recall the incident and did not recall whether PO Lovera damaged § 87(2)(b)'s iPad. PO Soney Varghese, who assisted with § 87(2)(b)'s arrest processing, testified (BR 27) that he did not recall whether PO Lovera dropped § 87(2)(b)'s iPad onto the stationhouse floor.

§ 87(2)(g) [REDACTED]

Allegation (W) Discourtesy: At the 81st Precinct stationhouse, Sergeant Yasin Elhaddad spoke discourteously to § 87(2)(b)

This portion of the incident was not captured on BWC or another video source.

- This is the first complaint to which § 87(2)(b) has been a party (BR 29).
- This is the first complaint to which § 87(2)(b) has been a party (BR 30).
- This is the first complaint to which § 87(2)(b) has been a party (BR 31).
- Sgt. Elhaddad has been a member of service for 14 years and has been a subject in three complaints and five allegations, none of which were substantiated. § 87(2)(g)
- PO Lovera has been a member of service for seven years and has been a subject in 10 complaints and 21 allegations, none of which were substantiated. § 87(2)(g)

- PO Angeron has been a member of service for three years and has been a subject in five complaints and nine allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of March 23, 2020, the NYC Comptroller's Office has no record of a Notice of Claim being filed in regard to this complaint (BR 32).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 6

Investigator: _____ Inv. Laura Strauss _____ 06/04/2020
Signature Print Title & Name Date

Squad Leader: Jessica Pena IM Jessica Peña 6/4/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date